

IN THE COURT OF COMMON PLEAS
MIAMI COUNTY, OHIO

STATE OF OHIO, *ex rel.*
ATTORNEY GENERAL
DAVE YOST

Plaintiff,

v.

RICHARD UNDERWOOD
DBA A&Z HOME IMPROVEMENT
& RENOVATIONS

Defendant.

CASE NO. 21-CV-225

JUDGE JEANNINE N. PRATT

**FINAL JUDGMENT
ENTRY AND ORDER**

RECEIVED
ATTORNEY GENERAL OF OHIO

JAN 26 2022

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

The Plaintiff commenced this action on July 29, 2021, by filing its Complaint and Request for Declaratory Judgment, Injunctive Relief, Consumer Restitution, Civil Penalties, and Other Appropriate Relief against Richard Underwood DBA A&Z Home Improvement & Renovations ("Defendant"). The Complaint alleged violations of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 *et seq.*

Defendant refused certified mail service and was served by ordinary mail on September 29, 2021. Defendant failed to answer and the Court entered a Default Judgment against Defendant on December 3, 2021.

Plaintiff has filed a Memorandum in Support of Damages and Other Requested Relief ("Damages Memo"). In its Damages Memo, Plaintiff submitted evidence, including a consumer affidavit, supporting the amount of consumer damages and civil penalties that Plaintiff was requesting. The affidavit provided evidence of consumer damages resulting from the conduct of

the Defendant. The evidence established that the consumers sustained monetary damages after Defendant failed to provide the services for which Defendant accepted the consumers' payments.

The Court finds that the consumers sustained damages in the amount of \$66,700.

In its Damages Memo, Plaintiff also explained the basis for a \$50,000 civil penalty. Plaintiff requested the civil penalty pursuant to R.C. 1345.07(D) and provided evidence of the Defendant's violations of the CSPA sufficient to warrant imposing a civil penalty. The Court finds Plaintiff's request for a civil penalty in the amount of \$50,000 well-taken.

Based on the above, the Court restates below the Findings of Fact, Conclusions of Law, and ordered relief included in the Court's December 3, 2021 Default Judgment Entry and Order, and orders additional relief based on the evidence presented in the Plaintiff's Damages Memo.

FINDINGS OF FACT

1. Defendant Richard Underwood is a natural person residing at 2 Rea Dr., Medway, Ohio 45431.
2. "A&Z Home Improvement and Renovations" is a fictitious business name not registered with the Ohio Secretary of State.
3. Defendant engaged in the business of providing home improvement goods and services to consumers.
4. Defendant represented to consumers that he would provide the ordered goods and services within an estimated time and then failed to provide such goods and services in the time promised.
5. Defendant failed to deliver some of the goods and services within eight weeks.
6. After receiving payment, Defendant sometimes began work but failed to complete the work.

7. Defendant provided shoddy and substandard home improvement services to consumers and then failed to correct such services.
8. Defendant has refused to refund consumers' payments despite the consumers' requests for refunds.
9. At the time of the transactions, Defendant failed to notify consumers of their right to cancel the transactions, or to provide consumers with a notice of cancellation form describing the consumers' right to cancel the transaction.

CONCLUSIONS OF LAW

10. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act ("CSPA").
11. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(3) and (6) in that Miami County is a county in which Defendant conducted activity that gave rise to the claims for relief, and a county in which all or part of the claim for relief arose.
12. The Attorney General is the proper party to commence these proceedings in the public interest and on behalf of the State of Ohio under the authority vested in him by R.C. 1345.01 *et seq.*
13. Defendant is a "supplier," as that term is defined in R.C. 1345.01(C), as he engaged in the business of effecting "consumer transactions" by soliciting consumers either directly or indirectly for goods and services (home remodeling and repair) for a fee, within the meaning of R.C. 1345.01(A).
14. Defendant engaged in "home solicitation sales" as a "seller" as that term is defined in the Home Solicitation Sales Act, ("HSSA"), R.C. 1345.21, as he made personal solicitations of his sales at the residences of buyers, within the meaning of R.C. 1345.21(A).

15. Defendant committed unfair or deceptive acts and practices in violation of the Failure to Deliver Rule, O.A.C. 109:4-3-09(A), and the CSPA, R.C. 1345.02(A), by accepting money from consumers for goods and services and then permitting eight weeks to elapse without making shipment or delivery of the goods and services ordered, making a full refund, advising the consumer of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.
16. Defendant committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing shoddy and substandard work and then failing to correct such work.
17. Defendant committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by failing to register his fictitious name with the Ohio Secretary of State as required by R.C. 1329.01(D).
18. Defendant violated the HSSA, R.C. 1345.23 and CSPA, R.C. 1345.02(A), by failing to give proper notice to consumers of their right to cancel the transactions by a specific date.

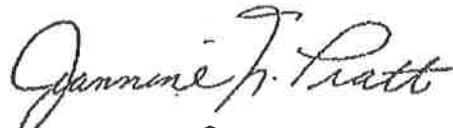
THEREFORE IT IS ORDERED, ADJUDGED, AND DECREED THAT:

- A. The Plaintiff's request for a Declaratory Judgment that the acts and practices set forth above are in violation of the CSPA, its Substantive Rules, and the HSSA, is hereby GRANTED.
- B. Defendant, his agents, employees, successors or assigns, and all persons acting in concert and participation with him, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, is hereby PERMANENTLY ENJOINED from engaging in the acts and practices of which Plaintiff complains and from further

violating the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, and the HSSA, R.C. 1345.21 *et seq.*

- C. Defendant is hereby PERMANENTLY ENJOINED from engaging in business in the State of Ohio as a supplier until all judgment ordered damages or other relief is paid, including any outstanding unsatisfied judgments arising out of any prior consumer transactions.
- D. Defendant is ORDERED to pay consumer damages to the Ohio Attorney General in the total amount of \$66,700 to be distributed by the Attorney General to Consumers Thomas and Maryann Daniszewski.
- E. Pursuant to the above findings that Defendant committed unfair and deceptive acts and practices in violation of the CSPA, Defendant is ORDERED to pay a civil penalty to the Ohio Attorney General in the amount of \$50,000.
- F. Defendant is liable to Plaintiff for collection costs as permitted by law.
- G. Defendant is assessed all court costs.

IT IS SO ORDERED.


J. 1091-1137

Prepared by:

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